

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 22 DEVELOPMENTAL DISABILITIES

Chapter 01 Definitions

Authority: Health-General Article, §7-904, Annotated Code of Maryland

.01 Definitions.

A. In this subtitle, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Administration" means the Developmental Disabilities Administration of the Department of Health and Mental Hygiene.

(2) "Alternative living unit (ALU)" means a residence owned, leased, or operated by a licensee that:

(a) Provides residential services for individuals who, because of a developmental disability, require specialized living arrangements;

(b) Admits not more than 3 individuals; and

(c) Provides 10 or more hours of supervision per unit, per week.

(3) "Assistive technology" means the technology necessary to enable the individual to live successfully in the community.

(4) "Aversive technique" means the use of painful or noxious stimuli to the body, which is intrusive to the individual's physical, mental, or emotional well-being, used to terminate challenging or maladaptive behavior.

(5) "Barrier" means an obstacle preventing or inhibiting an individual from receiving services and supports in the most integrated setting appropriate to meet the individual's needs.

(6) "Behavior plan (BP)" means a plan designed to modify behavior through the use of clinically accepted techniques.

(7) Behavioral Consultation.

(a) "Behavioral consultation" means on-site observation, assessment, and evaluation of the interaction between the individual and the individual's caregiver in the context of the individual's existing programs.

(b) "Behavioral consultation" includes:

(i) Recommendations regarding the structure of the program and appropriate activities and services; and

(ii) Consultation, as needed, with clinical professionals.

(8) "Behavioral emergency" means a situation in which an individual's behavior appears to present imminent danger to the individual or to others.

(9) "Behavioral respite" means relief services provided by a community residential licensee to meet an individual's behavioral needs.

(10) "Care provider" means an individual who is responsible for the daily operation of an individual family care home as defined in §B(26) of this regulation.

(11) "Challenging behavior" means those behaviors exhibited by an individual which:

- (a) Are harmful, destructive, or socially unacceptable; and
- (b) Necessitate being addressed in the individual's individual plan.

(12) "Chemical restraint" means the use of an injectable medication as an intervention in a behavioral emergency.

(13) "Community supported living arrangement home" means a residence:

- (a) Which is rented or owned by an individual or the individual's family or proponent or held in trust for an individual;
- (b) Where an individual lives as a roommate without the individual's name appearing on the lease or title; or
- (c) Where the licensee is the guarantor of rental or mortgage payments for an individual receiving CSLA services.

(14) Community Supported Living Arrangements.

(a) "Community supported living arrangements (CSLA)" means services to assist an individual in nonvocational activities necessary to enable that individual to live in the individual's own home, apartment, family home, or rental unit, with

- (i) No more than two other nonrelated recipients of these services; or
- (ii) Members of the same family regardless of their number.

(b) "Community supported living arrangements (CSLA)" include:

- (i) Personal assistance services;
- (ii) Supports that enhance the individual's opportunity for community participation and to exercise choice and control over the individual's own life;
- (iii) Training and other services necessary to assist the individual in achieving and maintaining increased integration, interdependence, and productivity;
- (iv) 24-hour emergency assistance;
- (v) Assistive technology;
- (vi) Adaptive equipment;
- (vii) Resource coordination;
- (viii) Environmental modifications;

(ix) Respite services; and

(x) Other services as approved by the Secretary or the Secretary's designee.

(15) "Department" means the Department of Health and Mental Hygiene.

(16) "Developmental disability" means a severe chronic disability of an individual that:

(a) Is attributable to a physical or mental impairment, other than the sole diagnosis of mental illness, or to a combination of mental and physical impairments;

(b) Is likely to continue indefinitely;

(c) Is manifested in an individual younger than 22 years old;

(d) Results in an inability to live independently without external support or continuing and regular assistance; and

(e) Reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are individually planned and coordinated for the individual.

(17) "Director" means Director of the Developmental Disabilities Administration or the Director's designee.

(18) "Eligible for individual support services" means an individual with a severe chronic disability that is:

(a) Attributable to a physical or mental impairment other than the sole diagnosis of mental illness, or to a combination of mental and physical impairments; and

(b) Likely to continue indefinitely.

(19) "Environmental modification" means physical adaptations to an individual's home that are provided to enable the individual to live safely at home.

(20) "Foreign corporation" means an entity that is properly organized, chartered, and incorporated under the laws of a state other than Maryland.

(21) "Forensic residential center (FRC)" means a facility that is:

(a) Licensed to provide a continuum of integrative services to individuals with mental retardation:

(i) Ordered by the court for an evaluation or to be confined;

(ii) Court-committed for care or treatment to the Department as incompetent to stand trial or not criminally responsible who are dangerous as a result of mental retardation; or

(iii) On conditional release and returned to the facility either voluntarily or on hospital warrant;

(b) A related institution as defined in Health-General Article, §19-301(o), Annotated Code of Maryland; and

(c) Not an extended care or comprehensive rehabilitation facility.

(22) "Functional analysis" means a method of investigation which involves the systematic, experimental manipulation of analogue conditions, and precise measurement of challenging behavior, in order to determine the behavioral consequences which maintain the challenging behavior.

(23) "Functional assessment" means a nonexperimental method, such as systematic observations and questionnaires, designed to assist in the formulation of an educated guess concerning the behavioral consequences which maintain challenging behavior.

(24) "Generic services" means services which are available to the community at large.

(25) "Goal" means measurable supports or training to achieve an outcome.

(26) "Group home" means a residence owned, leased, or operated by a licensee that:

(a) Provides residential services for individuals who, because of a developmental disability, require specialized living arrangements;

(b) Admits at least four, but not more than eight individuals; and

(c) Provides 10 or more hours of supervision per week.

(27) "Individual" means a person eligible to receive services from the Developmental Disabilities Administration.

(28) "Individual family care (IFC) home" means a private, single family residence which provides a home for up to three individuals with developmental disabilities, who are unrelated to the care provider.

(29) "Individual plan (IP)" means a plan that specifies assessments, services, supports, and training required by the individual.

(30) "Integrated work setting" means an environment in which individuals with developmental disabilities and individuals without developmental disabilities work together.

(31) "Licensed capacity" means the number of individuals for whom a licensee is authorized to provide services at a single site.

(32) "Licensed certified social worker" means a person authorized to practice social work under Health Occupations Article, Title 19, Annotated Code of Maryland.

(33) "Licensed health care practitioner" means a person licensed to provide health care within the scope of Health Occupations Article, Annotated Code of Maryland.

(34) "Licensed or certified professional counselor" means a person who is authorized to practice professional counseling under Health Occupations Article, Title 17, Annotated Code of Maryland.

(35) "Licensed physician" means a person who is authorized to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(36) "Licensed psychologist" means a person who is authorized to practice psychology under Health Occupations Article, Title 18, Annotated Code of Maryland.

(37) "Licensee" means an agency that has been granted a license by the Administration to provide services to individuals.

(38) "Management of disruptive behavior" means the Administration-approved curriculum for managing challenging or aggressive behavior.

(39) "Mechanical restraint" means a mechanical device which restricts the free movement of an individual, such as a safety coat or posey mittens.

(40) "Mechanical support" means a mechanical device used to:

(a) Support an individual's proper body position, balance, or alignment, such as splints, wedges, bolsters, or lap trays; or

(b) Protect an individual with a continuing medical condition from sustaining an injury, for example, the use of protective head gear for an individual with epilepsy.

(41) "Most integrated setting" means a setting that enables an individual with a disability to interact with nondisabled individuals other than staff to the fullest extent possible.

(42) "Natural supports" means family, friends, co-workers, and community members who provide informal assistance to the individual to enable the individual to live and work in the community.

(43) "Outcome" means tangible results of goals that reflect the desired quality of life as defined by the individual.

(44) "Personal assistance" means help with activities of daily living which does not have an habilitation objective.

(45) "Physical restraint" means a manual method used to restrict the free movement of an individual, such as therapeutic hold.

(46) "Plan of correction (POC)" means the licensee's proposed response to findings of noncompliance identified by the Licensing and Certification Administration or the Administration.

(47) "PRN orders" means a preauthorized order to administer a specific behavior management technique or medication to modify behavior which is administered on an as-needed basis when a challenging behavior is exhibited.

(48) "Program service plan (PSP)" means the document submitted as part of the licensure application that delineates the rationale, scope, staffing, training, setting, and location for the services or supports to be provided.

(49) "Proponent" means a person who has a legitimate interest in the welfare of an individual receiving services from a licensee.

(50) "Psychology associate" means a person who may perform psychological services under certain conditions as specified in Health Occupations Article, Title 18, Annotated Code of Maryland.

(51) "Record" means the cumulative body of information the licensee has on file regarding an individual.

(52) "Resource coordinator" means a professional:

(a) Designated by the Developmental Disabilities Administration;

(b) Not employed by a direct service provider;

(c) Who has knowledge and experience in community supports for individuals with developmental disabilities; and

(d) Who meets the requirements of COMAR 10.22.09.

- (53) "Respite" means relief services provided to the family or care provider to meet planned or emergency situations.
- (54) "Restrictive technique" means a technique that is implemented to impede an individual's physical mobility or limit free access to the environment, including but not limited to physical, mechanical, or chemical restraints or medications used to modify behavior.
- (55) "Seclusion" means the involuntary placement of an individual alone in a room.
- (56) "State residential center (SRC)" means a State owned and operated facility for individuals with mental retardation.
- (57) "Supports" means the assistance provided to individuals or their families to enable greater participation in the community and enhanced quality of life.
- (58) "Target behaviors" means those behaviors identified by the team to be changed by implementing a behavior plan.
- (59) "Team" means those persons, including the individual, proponent, licensee representatives, resource coordinator, and others involved in the development of the IP.
- (60) "Temporary augmentation of staff" means supplemental staff utilized on a time-limited basis to work with an individual exhibiting challenging behavior.
- (61) "Treating professional" means an individual designated by the facility director who is involved in the implementation of the IP.
- (62) "Verbal abuse" means disrespectful shouting, screaming, swearing, name calling, or other verbal activity directed toward an individual.
- (63) "Vocational assessment" means a method of determining an individual's job and career preferences and the skills and training necessary to accomplish these preferences.
- (64) "Volunteer work" means work performed by an individual without pay.
- (65) "Written plan of habilitation" means, for State residential centers, a component of the IP as described in COMAR 10.22.05.02B(14) and .03C.

Administrative History

Effective date: July 26, 1999 (26:15 Md. R. 1148)

Regulation .01B amended effective May 5, 2008 (35:9 Md. R. 897)

Regulation .01B amended as an emergency provision effective July 10, 2008 (35:16 Md. R. 1388)

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 22 DEVELOPMENTAL DISABILITIES

Chapter 05 The Individual Plan

Authority: Health-General Article, §§7-1002 and 7-1006, Annotated Code of Maryland

.01 Rationale.

Through an individual directed approach, each individual, with assistance from the individual's team, is the designer of the services and supports reflected in the individual plan (IP). The provision of these services and supports may be influenced by health and safety considerations or resource limitations. This chapter applies to individuals living in the community, FRCs, and SRCs.

.02 Components of the IP.

A. The IP is:

- (1) A single plan for the provision of services and supports to the individual;
- (2) Directed by the individual;
- (3) Outcome oriented; and
- (4) Intended to specify all needed assessments, services, and training.

B. The IP is a written plan which includes:

- (1) Strengths and needs of the individual;
- (2) Preferences and desires identified by and for the individual;
- (3) Services to be provided to the individual by the licensee, such as:
 - (a) Habilitation,
 - (b) Medical,
 - (c) Occupational therapy,
 - (d) Physical therapy,
 - (e) Social,
 - (f) Psychological,

- (g) Audiological,
- (h) Speech and language,
- (i) Nursing,
- (j) Assistive technology, and
- (k) Additional services to support an individual in retirement;
- (4) A behavior plan, if required;
- (5) Specific training and staffing ratios based on the needs, preferences, and desires of the individual;
- (6) Measurable goals for the completion of outcomes;
- (7) Target dates for the completion of goals;
- (8) Implementation strategies and dates;
- (9) Documentation of progress toward the achievement of goals;
- (10) Monitoring procedures;
- (11) Individuals responsible for providing the supports, services, implementation, and monitoring of the plan;
- (12) Documentation indicating that the individual or the individual's proponents, when applicable, have been involved in, informed of, and agree with the plan;
- (13) A determination of whether the needs of the individual could be met in more integrated settings; and
- (14) For individuals residing in a State residential center, the written plan of habilitation consisting of:
 - (a) The treating professional's recommendation on the most integrated setting appropriate to meet the individual's needs;
 - (b) The resource coordinator's recommendation on the most integrated setting appropriate to meet the individual's needs;
 - (c) A description of the services and supports, including residential, day, employment, and technology, that are required for the individual to receive services in the most integrated setting;
 - (d) A listing of barriers that prevent the individual from receiving supports and services in the most integrated setting, including community capacity or systems, if community services are determined to be the most integrated setting appropriate to meet the individual's needs; and
 - (e) An annual update on the status and progress toward addressing and resolving any identified barriers to receiving supports and services in the most integrated setting.

.03 Development and Implementation.

A. The resource coordinator, as defined in COMAR 10.22.09, shall ensure that:

- (1) Each individual, other than an individual receiving respite services in the community, has an IP that is developed not more than 30 calendar days after receiving services;
- (2) The IP is developed in a manner consistent with the values and outcomes in COMAR 10.22.04, and the provisions of any other relevant State or federal laws;
- (3) Each individual is provided with a range of the most integrated setting service options that may be appropriate; and
- (4) The IP meetings are held at a time and place convenient to the individual.

B. If the individual does not have a resource coordinator, the licensee, in the following priority order, shall ensure that the requirements of this chapter are met:

- (1) Community residential services licensee;
- (2) Vocational or day services licensee; or
- (3) Family and individual support services licensee.

C. Written Plan of Habilitation for Individuals Residing in State Residential Center.

- (1) The individual, a treating professional, and a resource coordinator shall develop the written plan of habilitation.
- (2) On an annual basis and any other time requested by the individual, the treating professional and the resource coordinator shall discuss with the individual:
 - (a) The service and support needs of the individual;
 - (b) A range of the most integrated setting service options licensed through the administration that may be appropriate; and
 - (c) Any identified community-based Medicaid waiver services and any other services and supports that may be appropriate.
- (3) The treating professionals and resource coordinator shall use any communication devices and techniques, including the use of sign language, as appropriate, to facilitate the involvement of the individual in the development of the written plan of habilitation.

.04 Decisions.

A. The team shall make decisions by consensus.

B. If the team cannot reach a consensus, the resource coordinator shall mediate and resolve the issue of concern.

C. If the resource coordinator cannot resolve the issue or if there is not a resource coordinator on the team, the appropriate regional director shall mediate and resolve the issue of concern.

D. For individuals residing in a State residential center:

- (1) If the team cannot reach consensus, the facility director shall mediate and resolve the issue of concern; and
- (2) If consensus still cannot be achieved, the regional director shall mediate and resolve the issue of concern.

.05 Review of the IP.

A. Each IP shall be reviewed and approved, disapproved, or modified by:

(1) The executive officer or administrative head of the licensee or a qualified developmental disability professional whom the executive officer or administrative head designates; and

(2) One other professional individual who is responsible for carrying out a major program but does not participate in the IP.

B. Approval of an IP shall be based on the current needs of the individual.

C. The team shall review each IP at least annually, or more often as needed, and modify each IP as required by the individual's circumstances.

D. Any member of the team may request a review or modification of the IP at any time.

.06 Implementation.

The licensee shall implement the supports and services that the licensee has agreed to provide, as indicated in the IP, within 20 calendar days.

10.22.05.9999

Administrative History

Effective date: April 13, 1977 (4:8 Md. R. 643)

Regulations .01—.06 repealed effective November 14, 1988 (15:23 Md. R. 2659)

10.22.09.00 (10-21-08)

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 22 DEVELOPMENTAL DISABILITIES

Chapter 09 Resource Coordination Program Service Plan

Authority: Health-General Article, §§7-903 and 7-904, Annotated Code of Maryland

.01 Additional Regulatory Compliance.

In addition to this chapter, a person who provides resource coordination to an individual shall comply with the following regulations of this subtitle:

- A. COMAR 10.22.01;
- B. COMAR 10.22.02, except COMAR 10.22.02.05, .06, .07, .11, .12, and .14E(1)(d);
- C. COMAR 10.22.03;
- D. COMAR 10.22.04; and
- E. COMAR 10.22.05.

.02 Rationale.

- A. Resource coordination is provided by a resource coordinator.
- B. The resource coordinator assists individuals in obtaining the best quality and most appropriate services and supports within available resources.
- C. The resource coordinator is responsible to individuals and their families for providing assistance in implementing individual choice, addressing individual satisfaction, and assuring that an individual's needs and preferences are addressed.

.03 Scope.

- A. Resource coordination may be provided to individuals determined eligible for services from the Administration, including individuals on the waiting list.
- B. Resource coordination may only be provided by licensees who do not provide direct services to individuals.
- C. The level and intensity of resource coordination may vary according to the individual's needs and desire for resource coordination.
- D. In the State residential center, a resource coordinator shall be provided for all individuals for the purpose of participating in the development of the written plan of habilitation.

.04 Functions of the Resource Coordination Licensee.

The resource coordination licensee shall carry out the following functions:

- A. Determine an individual's needs, preferences, desires, satisfaction, and the most integrated setting appropriate to meet the individual's needs;
- B. Assist the individual through planning in choosing goals and outcomes, the services needed to accomplish these goals and outcomes, and the establishment of realistic time frames for meeting these goals and outcomes;
- C. Broker services in consultation with the regional office to obtain generic services, services funded by the Administration, and natural supports;
- D. Advocate for the individual to assure that the individual's rights are protected and the individual's needs and preferences are considered;
- E. Monitor and act as a third-party advocate for implementation of the IP; and
- F. If requested by the Administration, provide utilization review of services being provided to individuals.

.05 Responsibilities of the Resource Coordinator.

A. The resource coordinator is responsible for:

- (1) Ensuring that each individual receives an IP that is designed to meet the individual's needs, preferences, desires, goals, and outcomes in the most integrated setting appropriate to meet the individual's needs and in the most cost effective manner;
- (2) Documenting that the IP is being implemented as designed;
- (3) Communicating information with the Administration in an effort to achieve a responsive service delivery system;
- (4) Assisting the individual in applying for services; and
- (5) Providing education to individuals and their families concerning:
 - (a) The range of most integrated setting service and support options that may be appropriate to meet the individual's needs;
 - (b) How to access services, and
 - (c) How to coordinate and advocate for services.

B. Resource coordinators shall have personal knowledge of each individual served and make every effort to effectively accommodate the individual's needs and preferences.

C. Resource coordinators shall personally meet with each individual served, at least every 6 months, in an effort to effectively meet the individual's needs and preferences.

D. In the State residential center, the resource coordinator shall:

- (1) Ensure that communication devices and techniques, including the use of sign language, as appropriate, are used to facilitate the involvement of the individual in the development of the written plan of habilitation;
- (2) Recommend the most integrated setting appropriate to meet the individual's needs; and

(3) Conduct an annual update on the status and progress toward addressing and resolving the barriers to receiving services and supports in the most integrated setting.

.06 Staffing and Training.

A. A resource coordinator shall have the skills necessary to:

- (1) Determine the most integrated setting appropriate to meet the individual's needs;
- (2) Coordinate planning meetings;
- (3) Negotiate and resolve conflicts;
- (4) Assist individuals in gaining access to services and supports;
- (5) Coordinate services; and
- (6) Monitor the provision of services to individuals.

B. The resource coordination licensee shall ensure through appropriate documentation that the resource coordinator receives training in:

- (1) Fundamental rights;
- (2) Communication skills;
- (3) Specific disabilities of the individuals the resource coordinator serves;
- (4) Development of the IP;
- (5) Facilitating individual choice;
- (6) Determining individual satisfaction; and
- (7) Developing opportunities for individuals to establish relationships, friendships, and connections in the community.

.07 Setting.

To the extent feasible, individuals may select:

- A. Their own resource coordinator; and
- B. The time, place, and frequency of meetings.

Administrative History

Effective date: August 25, 1986 (13:17 Md. R. 1922)

Chapter, Services Coordination Programs for Mentally Retarded and Nonretarded Developmentally Disabled Individuals, repealed and new chapter, Resource Coordination Program Service Plan, adopted effective July 26, 1999 (26:15 Md. R. 1148)

Regulation .03D adopted effective May 5, 2008 (35:9 Md. R. 897)

Regulation .04A amended effective May 5, 2008 (35:9 Md. R. 897)

Regulation .05A amended effective May 5, 2008 (35:9 Md. R. 897)

Regulation .05D adopted effective May 5, 2008 (35:9 Md. R. 897)

Regulation .06A amended effective May 5, 2008 (35:9 Md. R. 897)

